

Appl. No. : 09/199,747
Filed : November 25, 1998

COMMENTS

LOJACONO ET AL. AND PORTER DO NOT RENDER CLAIMS 1-4 OR 10-29 UNPATENTABLE

Claims 1-4 and 10-29 have been rejected as unpatentable over LoJacono et al. in view of Porter. Applicant disagrees with the characterization of the references and with the conclusion of obviousness.

LoJacono disclosed an adjustable nut 10 with adjustable nut saddle members 20, as illustrated in Figures 1-4 of LoJacono. Each of the adjustable nut saddle members 20 had exactly the same dimensions as the other adjustable nut saddle members 20. As discussed at page 2, line 22 through page 3, line 4 of the present application, LoJacono disclosed a complex structure with multiple parts that required adjustment of each individual string at both the nut and the bridge of the guitar. Disadvantageously, the complex structure of LoJacono was subject to rattles, went out of tune, required periodic adjustment and increased the costs of the associated guitar.

Similarly, Porter disclosed an adjustable nut that accommodated strings of varying diameter. The nut included a number of rotatable eccentric cylinders that could be used to raise and lower individual strings such that a single plane could be defined by the top surfaces of the array of wires. This construction did not provide intonation chambers and also required adjustment of each cylinder individually.

Claims 1-6, 8, 10-15, 20 and 25-28

Independent Claims 1, 12, 20 and 25 of the present application recite, among other limitations, one or more fixed intonation portions and the intonation portions having different dimensions according to the desired pitch compensation for each string. In his comments, the Examiner recognized that LoJacono did not disclose or teach one or more fixed intonation portions:

The device taught by LoJacono et al. accommodates strings of different sizes by an adjustment means thus providing fixed intonations when adjusted. LoJacono et al. does not teach the specific fixed diameters claimed by the applicant. However the saddle members taught by LoJacono are adjustable thus having the advantage of being fixed when adjusted to various diameters.

Office Action mailed June 1, 2000, at page 2 (emphasis added). Clearly, adjustable does not mean the same thing as fixed. Thus, LoJacono did not teach at least these limitations.

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Porter also failed to teach at least the same limitations as LoJacono et al. In order to establish a *prima facie* case of obviousness, the Examiner must identify a teaching or suggestion of every claim limitation. Because such teachings or suggestions cannot be found in the applied references, a *prima facie* case of obviousness has not been established with respect to Claims 1, 12, 20 and 25.

Claims 2-6, 8, 10, 11, 13-15 and 26-28 depend from Claims 1, 12, 20 and 25 and are allowable for at least the same reasons as their base claims. In addition, at least some of these claims recite further patentable distinctions. Accordingly, Claims 1-6, 8, 10-15, 20 and 25-28 are not *prima facie* unpatentable over the applied references and reconsideration is respectfully requested.

Claims 16-19

Claim 16 recites, among other limitations, a compensated nut connected to the neck, the nut having a front side and a bottom side, the nut including one or more cut-out fixed intonation sections on the front side. As discussed above, neither of the applied references taught or suggested fixed intonation portions. In addition, Porter failed to teach or suggest intonation portions. Rather, Porter disclosed rotatable cylinders used to simply raise or lower individual strings to provide a flush contact plane across the array of strings on the instrument.

Claims 17-19 depend from Claim 16 and are allowable for at least the same reasons as Claim 16. In addition, at least some of these dependent claims recite further patentable distinctions over the applied references. For instance, Claim 18 recites that the cut-out sections have different dimensions according to the desired pitch of the instrument. Accordingly, Claims 16-19 are patentable over the applied references. Reconsideration of Claims 16-19 is respectfully requested.

Claim 21

Claim 21 recites, among other limitations, fixed means for compensating the intonation of one or more strings of the instrument. As discussed directly above, fixed does not mean adjustable and neither of the applied references taught or suggested fixed means for compensating the intonation of one or more strings of the instrument. Reconsideration of Claim 21 is respectfully requested.

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Claims 22-24

Claim 22 recites, among other limitations, a plurality of fixed termination points along an elongated body, each termination point corresponding to one of a plurality of slots, at least one termination point being offset in distance from another of the termination points with respect to a line perpendicular to the strings. Once again, a plurality of fixed termination points is recited. At least one of the termination points is offset in distance from another of the termination points. At least these limitations were not taught or suggested by the applied references. Rather, contrary to the Examiner's statement, LoJacono disclosed adjustable termination points to the extent that LoJacono disclosed any termination points.

Claims 23 and 24 depend from Claim 22 and are patentable for at least the same reasons as Claim 22. In addition, these claims include further limitations that were not taught or suggested by the applied references. For instance, Claim 23 recites, among other limitations, that at least three of the plurality of termination points are offset from each other with respect to the perpendicular line. In addition, Claim 24 recites, among other limitations, that the offset is non-linear from termination point to termination point. Accordingly, Claims 22-24 are patentable over the applied references and reconsideration is respectfully requested.

CLAIM 7 IS PATENTABLE OVER LOJACONO ET AL. AND WILKINSON

Claim 7 has been rejected as unpatentable over LoJacono et al. in view of Wilkinson. Applicant disagrees and submits that a *prima facie* case of obviousness cannot be premised on the combination. Claim 7 is dependent and, unless Wilkinson supplies the teachings or suggestions missing from LoJacono et al. with respect to the base claim, Claim 7 is not *prima facie* obvious over the combination. Because Wilkinson does not supply the requisite teaching or suggestion of the limitations discussed above, a *prima facie* case of obviousness has not been established with respect to Claim 7. In addition, the claim recites further patentable distinctions over the applied combination.

CLAIM 29 IS NOT INDICATED ON THE COVER SHEET

Claim 29 was rejected but was not indicated as pending or rejected on the cover sheet. Applicant respectfully requests correction on any further communications.